

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROLAND C. ANDERSON,)	
)	
Plaintiff)	
)	
v.)	Civil Action No. 05-877 JJF
)	
GENERAL MOTORS CORPORATION,)	
)	
Defendant.)	

**RESPONSE TO PLAINTIFF'S MOTION TO STAY AND FOR
RECONSIDERATION OF THE ORDER DENYING ENTRY OF DEFAULT
JUDGMENT**

Before this Court is plaintiff's Motion to Stay the proceeding while his appeal is pending before the Third Circuit Court of Appeals. Specifically, plaintiff is appealing¹ the Court's Order Denying the Motion for Default Judgment. Plaintiff is apparently also seeking the Court reconsider its Order Denying the Motion for Default Judgment. While GM does not object to the requested stay, GM strongly objects to any vague request that the Court reconsider its prior Order regarding the Motion for Default Judgment.

As this Court is aware, the Third Circuit does not favor the entry of defaults or default judgments, preferring instead that cases be decided on their merits. Therefore, "doubtful cases [are] to be resolved in favor of the party moving to set aside the default judgment." *United States v. \$55,518.05*, 728 F.2d at 195. *See also Gross v. Stereo Component Systems, Inc.*, 700 F.2d 120, 122 (3rd Cir.1983). As such, this Court ruled that default was not warranted because plaintiff was not prejudiced by defendant GM's actions, GM had meritorious defenses to plaintiff's claims and there was insufficient evidence of culpability on the part of GM. Nothing in plaintiff's Motion contradicts any

of the facts or information detailed in the Court's Order. As such, plaintiff's request that the Court reconsider its prior Order should be denied.

Finally, to the extent the Court denies the Motion to Stay, GM respectfully requests that the Court modify the Scheduling Order governing this matter and extend by forty-five (45) days from the entry of such Order regarding the Motion to Stay the deadline for the parties to complete discovery. GM also requests a corresponding 45-day extension of the dispositive motion deadline. This request is necessitated by plaintiff's failure to cooperate with scheduling his deposition and his insistence that discovery cannot proceed in this matter until his appeals are resolved.

WHEREFORE, Defendant General Motors Corporation respectfully requests that the Court deny plaintiff's Motion for Reconsideration. GM further requests the Court enter an Order modifying the Scheduling Order to allow the parties an additional forty-five days to complete discovery, and an additional forty-five days to file dispositive motions and for any further relief the Court deems necessary and proper.

¹ Plaintiff also has an appeal related to the Court's Scheduling Order pending before the Third Circuit. However, plaintiff did not seek a stay related to that appeal.

Respectfully submitted,

/s/ Michael G. Busenkell

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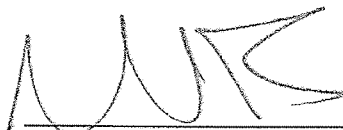
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Response To Plaintiff's Motion To Stay And For Reconsideration Of The Order Denying Entry Of Default Judgment was served, by First Class United States Mail, Postage Prepaid, on the following counsel of record this 25th day of June, 2007

Roland C. Anderson
113 Lloyd St.
Wilmington, DE 19804

A handwritten signature in black ink, appearing to read 'MGB', is written over a horizontal line.

Michael G. Busenkell (No. 3933)